

DETERMINATIONS

The Board of Adjustment shall make the following determinations prior to granting a variance:

- 1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;**

There are no special conditions or circumstances that exist which are peculiar to the land, but multifamily housing is common in this neighborhood.

- 2. That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;**

Four lots on this block have 4-plex multifamily dwelling units that do not have the required lot size. Of the 15 lots on this block 10 have multifamily dwelling units on them. Denying this variance would deprive the applicant rights commonly enjoyed by many on this block.

- 3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other land in the same district;**

Granting the variance would not grant a privilege to the applicant that is not already enjoyed by others in the neighborhood.

- 4. That the granting of the variance will be in harmony with the general purpose and intent of this Chapter and with the Growth Policy;**

Granting the variance does not conflict with the general purpose and intent of the zoning regulations and the growth policy. They are in a residential multifamily zone they just don't have the lot size required by current zoning, but neither do several of the neighbors with existing multifamily dwellings on small lots.

- 5. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Chapter;**

Staff is recommending the following conditions:

1. The variance from 27-308 requiring a minimum side setback of 8 feet for a 2-story structure to allow a minimum side setback of 3 feet; from 27-308 requiring a minimum rear setback of 15 feet to allow a minimum setback of 3 feet; and from 27-308 requiring a minimum lot area of 13,000 square feet for a 2-family dwelling and a single family dwelling on an undivided lot in a Residential Multi-family-Restricted (RMF-R) zone. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 1 of Block 1 Pioneer Park Subdivision, an 8,338 square foot parcel of land generally located at 503 Avenue D.
3. The garage and additional dwelling unit shall be constructed in substantial conformance to the site drawings submitted to the planning department with this application, meaning size and location on lot not style of building.
4. No construction activity will be done before 7 a.m. or after 8 p.m.

5. The owner will submit a building permit application within 1 year of Board of Adjustment approval and complete the construction within 2 years of Board of Adjustment approval.
6. Failure to begin or complete the approved actions on the variance will void the approved variance.
7. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

6. The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and

Staff recommends the applicant be required to submit a building permit application within 1 year and complete the project within 2 years of the variance approval.

7. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.

The granting of this variance would not allow a use that is not allowed in the zoning district – detached garages are allowed in the RMF-R zone.

ATTACHMENTS

- A: Surrounding Zoning & Site Location
- B: Site Photographs
- C: Site Plan and Elevations
- D: Applicant Letter and Application